

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

ALBERT YALE, et al.,

Plaintiffs,

vs.

COMMUNITYONE BANK, N.A.,

Defendant.

Civil Action No. 3:15-cv-403-RJC-DSC

CERTIFICATION AND REPORT OF F.R.C.P. 26(f) CONFERENCE AND DISCOVERY  
PLAN

*Please fill in or check the appropriate blanks (print legibly) to certify completion of the Rule 26(f) Attorney's Conference and provide the required information to the Court. Where the parties were unable to agree on a specific provision or item, please so note and attach any necessary explanation.*

1. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held by telephone on March 14, 2017. The conference was conducted by the undersigned counsel for the designated parties in the above-captioned case.

2. Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) (check one) ☐ has been exchanged ☐ will be exchanged within 30 days of the Court's Case Management Order.

Pursuant to LCvR 16.1(B), the parties choose to stipulate out of the mandatory disclosures required by F.R.C.P. 26(a)(1) and conduct discovery as provided below. The parties stipulate that they may begin written discovery at any time now in order to try to meet the deadlines below.

3. Discovery Plan. The parties jointly propose to the Court the following discovery plan:

- a) All fact discovery shall be commenced in time to be completed by November 30, 2017. All expert discovery, including depositions of experts, to be completed by February 15, 2018.

There are 33 plaintiffs listed in the First Amended Complaint and there could be as many as 60 depositions taken by the parties. Counsel intend to work together to coordinate depositions to be taken in the case to try to meet the discovery schedule above.

b) Discovery Limits:

- 1) Maximum of 35 interrogatories (*ordinarily 20*) by Plaintiffs to Defendant and maximum of 35 interrogatories by Defendant to Plaintiffs, except as may be later agreed to by the parties or ordered by the court based on the nature of the case.
- 2) Maximum of 50 requests for admission (*ordinarily 20*) by Plaintiffs to Defendant and maximum of 50 requests for admission by Defendant to Plaintiffs, except as may be later agreed to by the parties or ordered by the court based on the nature of the case.
- 3) Depositions: Maximum of 20 depositions by Plaintiffs and 40 depositions by Defendant, (*ordinarily 6*).

The number of depositions is necessitated by the number of plaintiffs in the case and the nature of the proceeding.

c) Reports from retained experts under Rule 26(a)(2) will be due:

- from Plaintiffs by December 15, 2017 (*date*)
- from Defendant by January 16, 2018 (*date*)
- Supplementations under Rule 26(e) due by the date of the expert's deposition, or if not deposed, by the date for completion of expert discovery (*list times or interval(s)*)

The parties have agreed that experts may be deposed and that the party taking the deposition shall pay the expert for the expert's time spent actually testifying at the hourly rate which the expert is charging to the other side for deposition and trial testimony.

4. Other Items. [*Attach separate paragraphs as necessary if parties disagree.*]

- a) The parties ☐ request ☒ do not request a conference with the court before entry of the scheduling order.
- b) All potentially dispositive motions may be filed by February 28, 2018 (*date, ordinarily one month after the close of discovery*)
- c) Global Settlement:
  - ☐ is likely
  - ☐ is unlikely
  - ☐ cannot be evaluated prior to \_\_\_\_\_ (*date*)
  - ☒ may be enhanced by use of the following ADR procedure:

- ☒ Mediated Settlement Conference  
☐ binding arbitration  
☐ judicial settlement conference  
☐ other \_\_\_\_\_

The parties agree that the above selected ADR procedure would be most useful if conducted:

- ☐ after an initial round of preliminary discovery to be completed by (date);
- ☒ after the completion of discovery
- ☐ after resolution of summary judgment motions, if any
- ☐ not applicable

- d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:  
from plaintiff(s) by 30 days before trial (date)  
from defendant(s) by 30 days before trial (date)
- e) The parties are not able to estimate the time for the trial of this matter at this time.
- f) ☒ The parties have discussed the issue of consent to the jurisdiction of a U.S. magistrate judge and determined that would not be appropriate in these circumstances.
5. Please identify any other matters regarding discovery or case management which may require the Court's attention (e.g., concerns re: confidentiality, protective orders, etc., unmovable scheduling conflicts)

The parties intend to present to the Court a proposed Protective Order.

/s/ Jonathan F. Andres 3/21/17  
Plaintiff's Counsel Date

/s/ H. Landis Wade, Jr. 3/21/17  
Defendant's Counsel Date

/s/ Edward Hughes Nicolson 3/21/17  
Plaintiff's Counsel Date

/s/ Andrew R. Hand 3/21/17  
Defendant's Counsel Date